STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 16,379
	)	
Appeal of	)	
	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her eligibility for Medicaid until she meets a "spenddown" of $861.52. The issue is whether the petitioner is over income for benefits.

FINDINGS OF FACT

1. The petitioner lives with her husband and their four children. The petitioner is disabled. Prior to March 2000 the petitioner received SSI, which made her eligible for Medicaid as a one-person household separate from the rest of her family. In March 2000 the petitioner's SSI was terminated on the basis of excess income from her husband's employment.

2. On March 2, 2000, the Department mailed a notice to the petitioner that her Medicaid had been terminated because she was over income, and that to become eligible she would have to incur medical expenses (i.e., a "spenddown") of $1,256 within a six-month period commencing March 13, 2000. The petitioner filed her appeal of this decision on March 8, 2000, and her benefits were continued pending the outcome of this appeal.

3. A hearing was scheduled for March 29, 2000, but on

that day the petitioner called the district office and requested a continuance, which was granted.

4. The matter was reset for hearing on April 20, 2000. The petitioner did not appear at this hearing and did not call to explain her absence. However, in response to a letter sent to her on April 26, 2000, pursuant to Fair Hearing Rule No. 14, the petitioner indicated she had been ill the day of the hearing, and she requested that it be reset. The hearing officer granted this request and reset the matter for May 18, 2000.

5. On May 18, 2000 the petitioner appeared at the hearing and stated that her husband's income had recently been reduced. The Department agreed to continue the matter and to recalculate the petitioner's eligibility based on this new information. The petitioner agreed that she would notify the Department if she disagreed with the revised determination. The hearing was continued until June 15, 2000.

6. Following the May 18 hearing the petitioner met with her caseworker and provided updated information regarding her husband's income. Based on that information the Department sent the petitioner a revised notice dated May 19, 2000 which recomputed the petitioner's eligibility for the period April 1 through September 30, 2000 and found

the petitioner ineligible until she incurred a spenddown of $861.12 for that period.

7. Sometime prior to June 15, 2000, the Department's attorney spoke by phone with the petitioner to discuss the status of her appeal. The petitioner indicated that she wished to continue her appeal, but the attorney told her the Department would not consent to a continuance beyond the pending hearing day of June 15 because the petitioner's benefits were continuing.

8. Neither the Board nor the Department heard back from the petitioner before the hearing. The petitioner did not appear at the hearing on June 15, and did not call. On June 19, 2000 the Board sent her another Rule 14 letter. On June 26, 2000, the Board received a letter from a social worker at a community home health agency stating that the petitioner had been ill and requesting that her appeal be heard. The letter stated that the loss of Medicaid would impose a financial hardship on the petitioner, but it did not allege any factual or legal basis of disagreement with the Department's decision.

9. In response to this letter, over the objection of the Department, the hearing officer rescheduled the matter for hearing on July 13, 2000. The petitioner did not appear at this hearing, and neither she nor anyone acting in her behalf has contacted the Board.

10. At the hearing on July 13, the Department submitted the information from its casefile that had been furnished by the petitioner regarding her husband's income. The Department represented that it had calculated the petitioner's eligibility by the method most favorable to her, and that this had resulted in a spenddown amount of $861.12. This amount was arrived at by taking the husband's gross monthly income ($2,346.08), subtracting a standard $90 employment expense deduction, and dividing that figure ($2,256.08) by the number of people in the household (6), which yielded $376.01 a month. This figure was then compared to one sixth of the standard "protected income level" (PIL) of $1,166 for a household of six, or a proportionate PIL for the petitioner of $194, which yielded a difference of $181.68. From this figure the Department subtracted $38.16, which is the amount the petitioner's husband pays each month to maintain his own employment-based insurance. The balance, $143.52, was determined to be the monthly amount by which the petitioner is overincome for Medicaid. This figure multiplied by the six-month period of eligibility yields the petitioner's spenddown of $861.12.

11. There is no indication that the petitioner disagrees with the income figures used by the Department. It appears she disagrees with the decision because it does not take into account her ongoing medical expenses, which

according to her social worker include "excessive medication needs".

ORDER

The decision of the Department is affirmed.

REASONS

Unless a Medicaid recipient is also a recipient of SSI, the Medicaid regulations count a spouse's earned income in determining eligibility. MM § M331. The calculations described above show that the Department followed its regulations in determining the petitioner's net countable income of $337.85 per month. That figure is then compared to one sixth of the highest applicable income test for a household of six to determine eligibility. MM § M423. The highest applicable income test for the petitioner under this method is $194.33 per month, rendering the petitioner ineligible. Procedures Manual § P-2420(B)(1). However, under the regulations, the petitioner can still become eligible if she meets a "spend-down" amount. That amount is determined by taking the monthly income in excess of the maximum income test and multiplying it by the six month certification period. This calculation was also performed correctly by the Department.

Unfortunately there is no regulation which takes into account the amount of a person's medical expenses when

determining initial eligibility. The "spend-down" amount established is the amount that the regulations expect that recipients can take responsibility for themselves given their income. In this case, that amount is $861.12. Once the petitioner has incurred that amount in medical expenses, she will become eligible for Medicaid coverage for the rest.

The petitioner should be aware that she only has to incur, not pay for, those expenses to become Medicaid eligible. The petitioner should also be aware that she has a right to apply for General Assistance if she feels she has an emergency medical need that she cannot meet. And, if she has not already done so, she should also apply for other programs operated by the Department such as VHAP-Pharmacy and VScript which help pay for prescription medicines.

However, inasmuch as the Department's decision in this matter is in accord with its regulations that decision must be upheld. 3 V.S.A. ə 3091(d), Fair Hearing Rule No. 17.

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